

**FORM TO BE USED BY FEDERAL PRISONERS FOR FILING A PETITION FOR WRIT OF
HABEAS CORPUS UNDER TITLE 28 U.S.C. § 2241
AND/OR WRIT IN THE NATURE OF MANDAMUS UNDER TITLE 28 U.S.C. §§ 1331 AND 1334**

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

David Sloane
Petitioner
48083-066 Unit N-2
Federal Medical Center - Devens
P. O. Box 879, Ayer, MA 01432
 (Full name under which you were convicted;
 Prison Number; Full Mailing Address).

04-40075

VS.

CIVIL ACTION NO. _____

David L. Winn
Respondent(s)
Federal Medical Center - Devens
48 Patton Road
Ayer, MA 01432
 (Name of Warden or other authorized person
 having custody of Petitioner).

PLEASE COMPLETE THE FOLLOWING. READ THE ENTIRE PETITION BEFORE FILLING IT OUT. ANSWER THOSE QUESTIONS WHICH PERTAIN TO YOUR TYPE OF CLAIM.

1. This petition concerns: (check appropriate blank)

A conviction
 A sentence (**CAUTION:** If you are attacking a sentence imposed under a Federal Judgment, you must file a direct motion under 28 U.S.C. § 2255 in the Federal Court which entered the Judgment).
 Jail or prison conditions
 Prison discipline issue
 A parole problem
 Other. State briefly: Improper calculation of Release Date and Pre-release Preparation (transfer to halfway house) Date

2. Place of detention: Federal Medical Center - Devens
48 Patton Road
Ayer, MA 01432

HAVE YOU FILED PREVIOUS PETITIONS FOR HABEAS CORPUS MOTION UNDER TITLE 28 U.S.C. § 2255, OR ANY APPLICATIONS, PETITIONS OR MOTIONS WITH RESPECT TO THIS CONVICTION?

YesXNo

3. If your answer is "yes," give the following information:

a. Name of the Court: _____

b. Nature of proceeding: _____

c. Grounds raised: _____

d. Result: _____

e. Date of result: _____

f. Citation or number of any written opinion or order entered pursuant to each such disposition: _____

4. If you did not file a motion under section 2255 of Title 28 U.S.C., or if you filed a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention:
Claim for improper denial of credit for time served is not cognizable
under § 2255. Challenges to the manner, location, or conditions of a
sentence's execution are proper subjects of a petition under the general
habeas corpus statute.

5. Does counsel presently represent you? _____ Yes X No

If so, Name address and phone number of counsel: _____

6. Name and location of court, which imposed sentence: Southern District of New York

300 Quarropas Street
White Plains, NY 10601

7. Indictment or case number, if known: Docket number 02 CR 1200

8. Offense or Offenses for which sentence was imposed: 18 U.S.C. 2252A(A)(5)(B)

9. Date upon which sentence was imposed and the term of the sentence: December 12, 2002
27 months imprisonment and 3 years supervised release

10. When was a finding of guilt made? (Check one)

After a plea of guilty

After a plea of not guilty

After a plea of Nolo Contendre

11. If you were found guilty after a plea of not guilty, was that finding made by:

A jury

A judge without a jury

12. Did you appeal the judgment of the conviction or the imposition of a sentence? Yes No

13. If you did appeal, give the following information for each appeal:

a. Name of court: _____

b. Result: _____

c. Date of result: _____

d. Citation or number of opinion: _____

e. Grounds raised: (List each one)

NOTE: If you appealed more than once, attach an additional sheet of paper the same size, give all the information requested above in question number 13, a through e. DO NOT WRITE ON BACK OF PAGE.

14. Summarize briefly the facts supporting each ground. If necessary attach a single page behind this page.

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

a. Ground one: Incorrect calculation of Release Date based on failure to credit full amount of Good Conduct Time (GCT) specified by 18 U.S.C. § 3624(b)(1).

Supporting Facts: (Tell your story BRIEFLY without citing cases or law. You are CAUTIONED that you must state facts not conclusions, in support of your grounds. E.g., who did exactly what to violate your rights at what time or place).

Petitioner's sentence monitoring computation data shows Petitioner's projected Release Date to be 03-11-2005 via GCT release based on a total GCT earned and projected of 105 days. This falls short of the 121.5 days which the statute provides [(27 months ÷ 12 months/year) × 54 days/year].

b. Ground Two:

Incorrect calculation of Pre-release Preparation Date resulting in failure to provide a full six months in a Community Corrections Center (CCC) and/or Home Confinement as provided by 18 U.S.C. § 3624(c).

Supporting Facts: Petitioner's sentence monitoring computation data shows Petitioner's Pre-release Preparation Date to be 12-31-04, which is only 10% of the time he would have served by his Release Date, thus providing only 10 weeks instead of 26 weeks.

Ground Three:

Supporting Facts:

15. If this petition concerns jail or prison conditions, prison discipline, a parole problem or other cause under 28 U.S.C. § 2241, answer the following:

a. Did you present the facts in relation to your present complaint in the internal prison grievance procedure?

Yes _____ No _____

(1) If your answer to "a" above is yes, what was the result? Four levels of action by petitioner led to no change in the improperly calculated dates.

(2) If your answer to "a" above is no, explain: _____

b. Did you present your claim to the Bureau of Prisons or other federal agency for administrative action?

Yes No See attached Memorandum of Law

(1) If your answer is "yes," state the date such claim was submitted and what action, if any has been taken:

(2) If your claim has not been acted on, attach copies of any correspondence you have received from the Bureau of Prisons or other federal agency concerning you.

c. **STATEMENT OF CLAIM:** State here as briefly as possible the facts of your case. DO NOT give any legal arguments or cite any cases or any statutes. Attach extra pages of the same size to this page if more room is necessary. DO NOT write on the reverse side of this page.

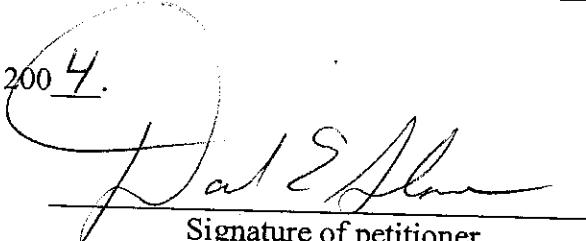
Petitioner is being denied 16.5 days of Good Conduct Time credit and 16 weeks of placement in a Community Corrections Center and/or on Home Confinement as a result of deliberate miscalculation of his Release Date and Pre-Release Preparation Date.

Petitioner informally requested that these dates be corrected by Unit Team, but was denied. He then submitted a written request for the correction of these dates to the Inmate System Manager. When no response was provided after two weeks, he then filed Form BP-8½ requesting resolution. That resulted in a conference with the staff member responsible for calculation of the dates in question. That individual told Petitioner that the dates would not be changed without either instructions from the Attorney General's office or a court Order.

16. RELIEF: state briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

1. Order Respondent to credit Petitioner with 121.5 days of GCT.
2. Order Respondent to transfer Petitioner to a CCC within close proximity to his home and/or Home Confinement no later than 6 months prior to his Release Date.
3. Order Respondent to perform the above in good faith adherence to Policies and Programs which were in effect at the time of Petitioner's sentencing.
4. Enjoin Respondent from attempting to circumvent the timely release of Petitioner.
5. Order any subsequent attempt by Respondent to alter or modify the Petitioner's Pre-release Preparation Date, date of actual transfer to a halfway house (and/or Home Confinement), and/or Release Date to be subject to review and approval by the Court.

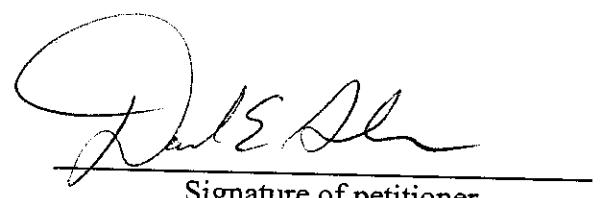
Signed on this the 12TH day of MAY, 2004.



Signature of petitioner

I DECLARE (OR CERTIFY, VERIFY OR STATE) THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE OR INFORMATION AND BELIEF AND THAT ANY FALSE STATEMENTS MADE THEREIN ARE MADE SUBJECT TO THE PENALTIES OF APPLICABLE LAWS RELATING TO UNSWORN FALSIFICATIONS TO AUTHORITIES.

Executed on: MAY 12, 2004.



Signature of petitioner